

**MINUTES****MILWAUKIE CITY COUNCIL  
WORK SESSION  
APRIL 14, 2003**

Mayor Bernard called the work session to order at 5:30 p.m. in the City Hall Conference Room.

Councilors present: Lancaster, Loomis, and Stone.

Staff present: City Manager Mike Swanson, Police Chief Larry Kanzler, Neighborhood Services Manager Michelle Gregory, Community Development/Public Works Director Alice Rouyer, and Project Manager Jeff King.

**Police Department Staffing Levels**

**Kanzler** introduced Mary Weaver, Milwaukie Police Captain Jim Colt, and Milwaukie Police Officer Robbie Graves. He explained police staffing concepts are a collaborative effort involving each level of the department with officer safety a primary concern. He invited Weaver because she has been working with the Public Safety Advisory Committee (PSAC) regarding drug activity in the Milwaukie Christian Church parking lot on King Road.

To clear up any misunderstandings, Kanzler outlined Council and staff roles and responsibilities. The police department makes recommendations to the City Council and city manager based on knowledge, experience, and training, and the chief performs his duties at the city manager's direction. The basic assumption is that all City departments operate with integrity, and department managers make decisions in the best interest of the City. The City Council considers departmental recommendations for its strategic planning, policy development, and communication with the community. Further, City Council, the city manager, and department managers work as a team to solve community problems and are not adversaries.

Charles Matthews, Special Agent in Charge of the Portland FBI office, has been in the business of public safety for over 30 years and is part of the FBI task force on terrorist activities. Matthews says the primary responsibility of government is to provide for the security of the people governed. Without this foundation, society cannot enjoy the benefits of a viable economy, a strong education system, and necessary social services. The FBI believes the reason terrorists attack is to demonstrate a government cannot provide safety for its citizens.

In past presentations, Kanzler has told Council that California is a barometer of what Oregon can expect within 6 – 8 months. In the first 2 months of 2002, California's crime rate increased by 5.3%. He showed monthly crime maps of Milwaukie neighborhoods which will be posted on the City's website in the near future. Part 1 crimes include murder, manslaughter, rape, and arson, and part 2 crimes include theft, misdemeanors, and juvenile crimes. In 2002, the Milwaukie police department responded to approximately 11,000 calls for assistance. Identity theft increased by 300% in Milwaukie and 1500% in Clackamas County. Kanzler made the tactical decision to bring the narcotics detective back from the county to work on identity theft.

**Councilor Stone** asked if identity theft means mail is being stolen or if personal information is being stolen electronically.

**Kanzler** said identity theft can be both. He continued to summarize Milwaukie statistics. Part 2 crimes include forgery, fraud, embezzlement, criminal mischief, narcotics, and counterfeiting. He pointed out increases in driving under the influence and disorderly conduct. Cases have increased in almost every category.

When preparing for high call loads and unsafe conditions, the department considers several issues. Kanzler works closely with the police union to ensure a safe minimum staffing level is maintained. If officers cannot protect themselves, they cannot protect the public. Call types also determine staffing levels. Another issue is availability of support from neighboring jurisdictions. He discussed crime rates in neighborhoods adjacent to Milwaukie and the staffing levels in Clackamas County and Portland. Response time expectations are also key in the decision making process. If certain calls are not responded to quickly, public expectations drops, and citizens interpreted it as a lack of caring by the City. Milwaukie, unlike Portland, does care about its residents. Finally, the response level, or how many officers should be sent on a call, is also an issue.

In 1996 through 1998, Milwaukie received grants for overtime costs, problem solving, and community policing. The grants plus the City's match provided for \$150,000 for overtime without any additional officers being hired. These grant funds, however, are no longer available. Kanzler reviewed staffing ratios of police departments in the area. He noted a high level of recidivism in Milwaukie because Clackamas County cannot keep people in jail. The sheriff does not have the staffing level needed to supervise 150 custodial beds. As of March 6, 2003, there were 866 resident warrants in Milwaukie. This is a law enforcement system failure.

Kanzler discussed the pros and cons of 4 deployment strategies: equal staffing distribution; response time; calls for service; and a combination of calls for service and community problem solving. In the equal staffing scenario, the number of officers it takes to do the job is defined by the number of available

hours. In the response time deployment scenario, the staffing level is determined by how long it takes to get to a call. The national response time average for priority calls is 3 minutes. Most departments do not use the calls for service option as a single standard because volume and priority are unknowns. In the response time strategy, officers are assigned to districts to provide a 3-minute response, which may result in abandonment of particular districts under certain circumstances. Problems inherent with that strategy are: no control of the number and types of calls; staffing needs are not predictable; and increased staff does not result in a reduction in crime. The calls for service strategy is the basic shift augmented as call for service increase with the 3-minutes response time on priority and life threatening calls. Milwaukie uses a combination of calls for service and community problem solving. Shifts are staffed to meet the workload created by calls and augmented by additional staff to investigate issues. The number of officers it takes to do the job is defined by the hours available. To work 1 district 24 hours a day, 7 days a week, 365 days a year, requires 8,760 hours or 6.33 officers. This is a total of 25.3 patrol officers. Kanzler discussed liability issues related to required training and providing adequate supervision. In addition to this basic staffing level, Milwaukie provides 1 Tri-Met officer, 2 school resource officers, 2 traffic officers, and 4 detectives. This brings the current staffing need to 34.3 officers with 29 actually budgeted.

Upon transitioning to Lake Oswego Dispatch on March 31, Milwaukie gained access to CAD technology that efficiently tracks calls for services. The calls for service deployment strategy can be more finely tuned by using this data. During low call volume periods, staffing can be dropped to minimum safe levels, and community issues can be addressed more efficiently without extensive use of overtime.

At a previous Budget Committee meeting, former Councilor Marshall asked Kanzler what staffing level Milwaukie needed, and, based on solid law enforcement principles, he responded that Milwaukie needs 1.75 officers per thousand. The Milwaukie police department has a 30-officer demand for a total of 35 sworn personnel to reach the 1.7 officer per thousand-population ratio. Unfortunately, Milwaukie is understaffed by 6 officers. He briefly reviewed a comparison of staffing levels in other cities.

The Milwaukie police department will not be able to deal with issues in the near future. For example, the 2 traffic officers were responsible for 550 of the 650 citations written last month; this is revenue to the City. If there is a temporary staffing gap in a district, Kanzler pulls a traffic officer or school resource officer to fill it. Financially, it is not feasible for the City to staff 35 officers. The crime rate is on the rise, and law enforcement is faced with a system-wide problem. Livability is at stake because ineffective public safety discourages community development.

His recommendations to the City Council and Budget Committee are very basic. He believes the Council should consider developing a policy that deals with community safety and livability and set it as a priority of this government. Police staffing represents the backbone of community livability and future development, and he urged restoring staffing levels as funds become available. He promises to do the best job possible with available personnel, but, as a matter of public trust, adequate police department staffing must be a priority.

**Mayor Bernard** asked if homeowners are required to pay for false alarms.

**Kanzler** said they are required to pay after the fourth false alarm.

**Mayor Bernard** asked if there is funding available for mandated officer training.

**Kanzler** explained Milwaukie has a reciprocity program with the Portland training unit.

**Mayor Bernard** understands some cities are fining people because incarceration is a problem.

**Kanzler** said most of the people who are arrested do not have credit cards, but it would be something to consider.

**Mayor Bernard** suggested Milwaukie adopt an ordinance establishing a minimum fine amount.

**Kanzler** indicated he has already made that recommendation to the city manager.

**Councilor Lancaster** asked the current officer to population ratio.

**Kanzler** said Milwaukie currently has 1.26 officers per thousand. The recommendation in the good years would be 1.7. Oregon has the lowest ratio of officers to population of any state in the country.

**Councilor Stone** asked how many officers there are with a staffing ratio of 1.26 officers per thousand.

**Kanzler** responded there are 29 officer positions in the city manager's recommended budget. The transition to Lake Oswego dispatch provides technology that may result in more efficient staffing. He guarantees getting the most bang for the buck from personnel and doing the best job possible. The Milwaukie police department is already seeing some benefits of this technology through more accurate tracking and information sharing between shifts. Without the resources and people to pay attention to problems, the department will only be able to deal with the symptoms.

**Councilor Loomis** said as a citizen he feels safe in this community and believes the department is doing a good job.

**Weaver** commented on the number of criminal activities that go unreported because people feel they cannot provide enough information. She recommended educating citizens on how they can effectively report activities to the police department to more efficiently use the limited resources. Her present concern is activity at the Milwaukie Christian Church on King Road.

**Carl Jacob** asked if citizen patrols would minimize some of the minor problems that take up police time.

**Kanzler** said citizen patrols have been used in Hillside Manor and are effective in dissuading certain people. Generally, once a problem goes away, citizen interest wanes. He feels it is appropriate to identify and solve a problem without burdening people with an ongoing activity that no longer has a benefit for them. Usually citizen patrols work best on a specific problem.

**Mayor Bernard** noticed a lot of crime takes place when people do not lock their homes and vehicles. In reading the call log, it seems the police are sometimes called unnecessarily.

**Councilor Lancaster** asked Kanzler his views on installing video stations in high crime spots.

**Kanzler** said when light rail was first being considered, he recommended video monitors in high use areas. He believes this is a viable option for public areas and active transit areas in particular.

**Councilor Stone** suggested a monthly *Pilot* article that educates the public on protecting itself from such things as identity theft and knowing how and when to report suspicious activities to the police.

**Kanzler** will use the City's website as much as possible and commented on the number of residents who contact him via e-mail with questions and comments.

**Councilor Stone** believes the walking patrol is a great idea and has seen it implemented in the Ardenwald area periodically. She asked if the Public Safety Advisory Committee (PSAC) is reaching out to their neighborhood associations to establish a program.

**Kanzler** said, if there were specific problems, he would recommend that.

### **Centennial Update**

**Gregory** updated the City Council on Centennial project plans. She hopes to get feedback from Council on how the City can support the project given the budget situation, her resignation effective June 30, and Ed Zumwalt's current medical condition.

**Mayor Bernard** has met with the Centennial Committee to find out specifically what it needs from the City. There has been discussion about hiring someone outside City staff to coordinate the event. One organization made a proposal, and Zumwalt suggested an individual who might be interested. There is some money left from the consultant's contract.

**Swanson** wants a clear idea from the Committee how much is left to be done before making a commitment. He wants to ensure someone capable is taking over for Zumwalt by tailoring the person to the remaining tasks.

**Gregory** noted staff is reviewing all permits submitted for the event and working with *The Clackamas Review* on an insert that will serve as the main publicity piece for the events. Publicity will continue in *The Pilot* and on the City website, and the neighborhoods are moving forward on their projects.

**Councilor Lancaster** understands Gregory to say additional monetary support from the City is needed.

**Swanson** said the City would have to spend some funds to pick up what Zumwalt has been doing. This is the Milwaukie Centennial, and he believes the City should be responsible for keeping the event going.

**Councilor Lancaster** agreed. He is concerned about additional support and the chief's ability to provide sufficient security because of overtime costs. A celebration can quickly turn into a disaster if security is not adequate.

**Gregory** indicated she is still working on this issue with the chief.

**Councilor Loomis** remembers when City Council first discussed the Centennial. He wants to hear from the Committee and would be supportive of its requests. People have put a lot of time and effort into the event, and it needs to come to a nice finale.

**Mayor Bernard** said there would come a point when no more commitments could be made. Zumwalt, as the principal fundraiser, has collected over \$40,000 for the event.

**Councilor Stone** asked if anyone else on the Committee has been actively fundraising.

**Gregory** said there are a few other members supporting Zumwalt's efforts, but he has been the lead fundraiser.

**Mayor Bernard** added contacts have been made and money is coming in for the event.

**Councilor Loomis** said for Zumwalt's benefit, the City needs to step up and finish the project.

**Mayor Bernard** will find out from Zumwalt what needs to be done and coordinate those final efforts. He has talked to the Centennial Committee chair, and she is willing to sign any contracts.

**Councilor Lancaster** requested strategic updates. He asked if staff and volunteer liability issues have been resolved.

**Gregory** responded the volunteer issue is on its way to being resolved, and there is sufficient information on staff liability.

**Councilor Lancaster** asked Gregory to address earlier concerns about renegade marketing efforts.

**Gregory** said initially Committee members were concerned about use of the Centennial logo in ways that would not make everyone proud, but she feels it is safe to say nothing has come up that would cause alarm.

**Mayor Bernard** added the City paid for logo development, and Celebrate Milwaukie, Inc. (CMI) might be interested in licensing it if the City authorizes.

**Councilor Stone** recommended communicating with Centennial Committee and suggested an update from the Chair at the next City Council work session.

**Councilor Lancaster** asked if the \$250,000 grant was still viable.

**Gregory** said Milwaukie was eliminated but believes it is still eligible for tourism planning assistance from Clackamas County.

### **Board and Commission Interviews**

City Council interviewed Carlotta Collette, Lisa Batey, Kate MacCready, Mark Weidkamp, and Rosemary Crites for vacant positions on appointed advisory boards.

**Donald Hammang**, Planning Commission Chair, said despite budget constraints a lot of the work has been accomplished. The Commission is cohesive, and organically the members perform well together. He believes the neighborhood

program provides an avenue that helps residents focus their development concerns and in turn helps the Commission move forward in its decision-making processes.

**Councilor Lancaster** said Hammang understands better than most the efforts that have gone into providing the tools to help the Commission operate effectively and fulfill the community goals. He asked if there were anything else the Council could do.

**Hammang** said his ongoing concern is sufficient staff time. Staff and consultants have been working to modernize the code so the Commission and City employees can deliver a consistent message and more cost-effectively operate local government. He perceives this as modernizing a business process and believes progress has been made. Another qualitative hallmark has been working through controversial development situations like the Centex Homes application in the Lake Road neighborhood. The neighborhood focused its residents' concerns, which enabled staff to work through issues item by item. The Planning Commission was able to render a decision that went from controversy, to consensus, to an application that will be built with which the community seems happy. This represents a big change over the past 10 years. There is either greater consensus on the Commission or better rules.

**Brent Carter**, Design and Landmarks Commission (DLC) Chair, said the members are celebrating the adoption of the downtown design guidelines. Now, they will watch the plan work and evaluate it for future amendments. Over the past 6 months, the Commission has had vacancies resulting in decision-making problems, so he was happy to see the number of applicants being interviewed by Council. Staff is excellent in its communications, and all of the current Commission members relate well.

**Councilor Stone** asked how many members there are. She noted Carter's name was not on the roster.

Staff will check on the oversight.

### **Transportation Maintenance Fee**

**Mayor Bernard** explained Clackamas County has been considering a utility maintenance fee for about 1 year, and Milwaukie is part of the study group.

**Rouyer** said the City has had an intergovernmental agreement (IGA) with Clackamas County to study the feasibility of a countywide utility fee. This is a critical issue for Milwaukie because its growth is stagnant. The City has been entirely dependent on state gas taxes, and because there is no significant increase in population or geographical size, these revenues will flat line or decline over time. There is a considerable backlog of projects, and many City



streets are in bad repair. Staff is seeking direction on whether the Council wishes to proceed with Clackamas County or go forward independently. The Budget Committee expressed interest in a PGE privilege tax of 1.5% to go toward street lighting costs, and staff is seeking Council input on this. The street fund currently pays about \$300,000 for street lighting, and, if implemented, the tax would free up that amount for maintenance projects.

**John Ghilarducci**, Financial Consulting Solutions (FCS) Group, Inc., provided background information on the issues, the process, preliminary rate numbers, and sample bills. The project participants are Clackamas County and the Cities of Milwaukie, Happy Valley, Gladstone, Estacada, and Oregon City. One issue is decreasing revenues for local transportation funding due in part to auto fuel efficiency. Other potential revenue sources like property taxes, timber receipts, and franchise fees are traditionally not spent on roads or are being phased out. As revenues go down, needs increase for capital construction and maintenance.

**Councilor Lancaster** asked if high fuel costs reduce consumption.

**Ghilarducci** said the information on fuel efficiency is from the department of transportation, and there was no information on what the elasticity effect might be on the price of fuel.

**Councilor Lancaster** believed, given the volatility of world events and the unknown in terms of oil, that if gas reached \$3 per gallon there would be a deterring effect on consumption making the situation even worse.

**Ghilarducci** explained to the group that gas tax is a cent per gallon and not, as many believe, a percentage of the per gallon cost. The goal of the feasibility study has been to address the need for funding in an equitable, legally defensible manner, to meet the costs and deficiencies in a politically palatable way, and to develop a process that is reasonable to administer. The Transportation Adequate Financing Subcommittee of the Clackamas County Concurrency Committee (CCCC) looked at the options and concluded this fee as the preferred option.

Utilities are a business enterprise within the local governments. Their revenues can be dedicated to a specific purpose, and a fee structure can be designed that equitably recovers costs from those most significantly impacting the system. The technical advisory committee (TAC), made up of staff from each of the participating jurisdictions, acted as a support committee for the CCCC.

Initially, policy issues were identified and papers prepared that defined each issue and provided alternatives for Committee discussion. The resulting TAC policy recommendations were: name and purpose of the fee and the fee structure. Early on, it was decided a road maintenance fee to fund specific projects in the county and participating cities would best fit the need. A

transportation fee is most easily based on land use and trip generation which in turn can be directly linked to road maintenance. Further, it is most legally defensible as a user fee.

Other issues had to do with developing fiscal policies that would ensure the ongoing financial health of the utility; granting only cost-based credits for senior, low income, tax exempt, and public agencies; applying initial rates uniformly throughout the service area and allowing area specific rates in participating cities; processing bills within each participating jurisdiction; and developing implementation strategies designating the county as the first adopting agency followed by the cities' consent to have the fee imposed in their areas.

Once the actual framework of policy recommendations was done, estimates were prepared. Three main questions were asked: Does the activity have a direct and perceived benefit? Does the activity serve the general road user? Does the level of activity required vary with the volume of usage? Ghilarducci briefly reviewed the pavement life cycle and how crucial maintenance is. As the pavement quality falls from excellent to fair, the life of the pavement is reduced by 25%. As the quality drops below fair, all but 12% of the life of that pavement is used. At that point, the cost is 4 – 5 times as much to improve the pavement quality because the road has to be reconstructed.

Eligible maintenance activities included roadway treatments, road shouldering, bridge maintenance, guardrails, traffic operations, and vegetation control. The costs of these components varied widely among the participating jurisdictions. Each participant was asked to cost out how much it actually spends on each of those activities and what it should spend. Preliminary rates were established using these figures. The annual costs of the eligible maintenance activities were divided by customer information on the number of average daily trips (ADT) to come up with the base rate per trip. Ghilarducci discussed the proposed residential and non-residential rates. The trip generation information comes from the *Institute of Transportation Engineers Manual*, which contains estimates for some very specific land uses based on nationwide survey data. He discussed the non-residential groups and the types of entities included in each.

**Councilor Stone** noted Group 5 has 100 ADTs which seems low when compared to Group 1.

**Ghilarducci** explained the 100 ADTs are per 1,000 square feet of developed floor space. He thought it was wise to err on the low side particularly when looking at fees that could be thousands of dollars per month. The trip generation information, in some cases, does not have as many surveys supporting the numbers as some may like. He believed Stone was right, and there could be specific land uses that would generate significantly more ADTs.

**Ghilarducci** said once the Committee had the capability to develop rates, it looked at alternatives using the area-specific rate approach and the uniform rate approach. In cities, fees for a single-family residence could be as little as \$1 - \$2 per month, but in the county fees could be as much as \$20. At the CCCC level there was a real desire to work collaboratively, so the area-specific rates were generally ruled out in favor of the uniform rate approach. The problem came when this approach generated revenue that in some jurisdictions' cases far exceeded and in others fell far short of the needed amounts. In other words, cities were collecting more, and the excess revenue was going to the county. This did not seem feasible. As a result, the proposed approach is a uniform rate set by the lowest area-specific rate of any of the participants, and no money changes hands. The downside is, no one jurisdiction collects all the money it needs. It is important to remember the gas tax revenue may still be used for capital projects, and the utility fee would be used for delivering a higher level of service in road maintenance.

In Milwaukie, the ratio is about 68% commercial and 32% residential. In the scenario he discussed, single family residential would pay \$2.17 per month and multi-family residential would pay \$1.36. For non-residential, Group 5 businesses could pay up to \$22.68 per thousand square feet of developed floor space. He reviewed sample billings for several businesses in the participating jurisdictions. The highest ratepayers in Milwaukie would be Albertson's and Providence Hospital.

The Council discussed charging distribution centers and Tri-Met. **Councilor Stone** was concerned about not being able to access trucking companies whose use results in substantial maintenance needs.

**Ghilarducci** said he had looked at adding a multiplier to businesses with a lot of truck traffic but did not find any usable information to charge that kind of factor; however, the Committee will continue to look at this issue. Further, pass-by trips have been deducted from the ADTs for all retail land uses.

**Councilor Lancaster** thought this did not get to the critical issue of Milwaukie's being a pass through community.

**Rouyer** said the argument might be made for Milwaukie's keeping some county revenues.

**Councilor Lancaster** and **Councilor Stone** agreed with that argument because of the trips generated through Milwaukie.

**Rouyer** added that Clackamas County might make a similar argument about Milwaukie residents going to the Town Center.

**Councilor Lancaster** noted the excessive damage caused by truck traffic and expressed concern over what he has heard about distribution centers. Even based on the very large square footage, the fee does not come close to the damage done by continuous heavy truck traffic.

**Mayor Bernard** said these companies pay a weight and mile tax of which Milwaukie receives a share through ODOT.

**Councilor Lancaster** does not believe it covers the damage inflicted on Milwaukie streets.

**Ghilarducci** said 1 way to deal with that is to apply a local multiplier but cautioned the methodology must be applied fairly.

**Councilor Lancaster** said that seems like an almost impossible mission. Even the square footage element does not seem to factor in those operations that are open 24 hours per day.

**Ghilarducci** said any non-residential customer might appeal its rate by providing a traffic study that shows how its operation differs from the data in the *Manual*. The onus is on the customer to make the investigation and appeal the rate. Any utility rate is imperfect, and the best that can be done is to take all the information and do what is most fair.

**Councilor Stone** asked why the county did not put a measure on the ballot to raise the gas tax and let the voters decide instead of imposing a utility fee on residents. It seems more equitable to tax those using gasoline.

**Ghilarducci** said the Committee generally felt voters would not approve a gas tax. One of the advantages of this approach is that it is first adopted by the County Commissioners and then consented to by the participating City Councils.

**Councilor Stone** understands it is hard to develop a fee that is perfect and equitable for everyone, but it seems unfair that a certain segment of those actually using our roadways would be exempt from the fee.

**Ghilarducci** reviewed rates already adopted by other jurisdictions that ranged from \$1.42 to \$5.12 per month for single family residences. Eugene, for example, adopted a fee plus a local gas tax. Lake Oswego's utility is postponed because, as he understands, an impassioned citizen convinced the City Council education came first.

**Councilor Lancaster** has concerns with the exemptions.

**Ghilarducci** said only those residential customers who are able to prove they have no vehicle or licensed drivers and that they are basically not providing

services which generate trips to and from their residence or places of business would be exempt. It is written so that very few people would be exempt, and the onus would be on the appellants to prove they are not subject to the fee. His report only represents a sample of businesses that might be in a group; the *Manual* is much more detailed. Parks fees, for example, are based only on structures in a park. Measurements are based on the developed interior square footage of facilities including enclosed courtyards. Parking areas are not counted. He believes city and county parks are based on acreage. Churches, as he recalls, are in Group 1 or 2 because the average daily trips do not occur at peak hours, and there are few trips on an average daily basis.

**Rouyer** said Ghilarducci prepared a large spreadsheet with all of these groupings, and the *Manual* is very thorough. Any entity may challenge the group in which it is placed by providing a traffic study.

**Ghilarducci** added that obvious misclassifications could be easily fixed. The draft ordinance requires that a licensed engineer carry out the traffic study.

**Councilor Stone** referred to page 8 of the report regarding the basis for the fee and heavy vehicle usage. In parenthesis it reads "since determined to be unsupportable with data available."

**Ghilarducci** explained there is plenty of data that says trucks cause thousands of times more damage than cars. The data that is not available is how to specifically apply the methodology to a location and determine who should be paying the additional amount for those truck trips.

**Councilor Stone** thought something could be done about that by doing research on the businesses and who receives the services.

**Bob Hatz**, Citizens Utility Advisory Board (CUAB), Chair, said the Board supports the effort to develop a transportation maintenance fee as a reasonable method to help address the preservation and improvement of Milwaukie's road system. The Board supports the user fee for several reasons. Milwaukie roads are rapidly declining. The backlog of needed repairs and capital improvements has grown each year, and now equals several million dollars. At the same time, existing revenue sources like state gas tax are declining because Milwaukie is not growing as fast as some of the other cities. Milwaukie has over 75 miles of roads with a value in excess of \$90 million, and the City needs to find a way to maintain and protect its investment. The transportation maintenance fee is based on usage like any other utility. It is a user fee and not a tax. The fee is a modest way to begin rebuilding City roads. The current proposal shows a monthly fee of \$2.17 for single family residential and \$1.36 for multi-family units. The CUAB supports the current county/city methodology being proposed for this user fee provided that certain safeguards and designs are in place. These are: all monies collected by the transportation maintenance fee in Milwaukie go to

Milwaukie roads only, and all monies collected are clearly dedicated to road maintenance projects only. Users may appeal their fees if they believe they have been placed in an incorrect group.

**Rouyer** commented on how impressed she has been with the Board members. They have been engaged in their assignment and have asked many critical questions about the concepts.

**Councilor Lancaster** asked if there was any reason the City Council would not want to do a joint process with the county.

**Rouyer** said, through the neighborhoods, Milwaukie does more active outreach and is probably more aware of citizen concerns and questions than other jurisdictions in the area. Her only apprehension would be an overwhelming concern by the rest of the county. On the other hand, if the concept is supported countywide, the Milwaukie City Council could simply consent to the county action rather than developing a fee system of its own.

**Project Manager Jeff King** said the county appointed a Transportation Maintenance Advisory Board comprised mostly of business representatives. The proposed fee is still a work in process and is being vetted by much of the business community.

**Mayor Bernard** is concerned about finding a greater balance between residential and commercial fees. He is very concerned about the City's desire to grow by attracting businesses while implementing a transportation utility. He agrees, however, there needs to be a sharing of road maintenance responsibilities. For this reason, he is interested in looking at the feasibility of a PGE privilege tax to pay for street lighting. He also questions if the Clackamas County Commissioners would support actually this proposal. Milwaukie streets are reaching the end of their life cycles, and, if this is an equitable method for Milwaukie to maintain its streets, it should be considered.

**Councilor Loomis** asked why the gas tax has not been increased. He understands a fee can be implemented without a vote.

**Rouyer** said voters have not approved a state gas tax increase.

**Ghilarducci** said user fees are charged equitably to those causing the costs to be incurred, so must be an attempt to make it fair.

**Swanson** added there is some discussion of increasing the gas tax during each legislative session, and a number of issues get in the way including AAA, truckers, and ODOT. Voter approval of a gas tax increase is only one element with a host of other issues swirling around the proposal. Cities may charge a local gas tax, and Washington County implemented its own gas tax. Clackamas

County sent a gas tax proposal to the voters on 2 occasions, but each was rejected. He explained gas tax funds may be used only within the right-of-way. Many years ago the healthiest fund in local governments was the road fund because the gas tax was generating a tremendous amount of money. As a result, many cities put their street lighting programs into their road funds. Now cities find themselves in the position of spending needed road maintenance money on lighting, and general funds cannot absorb that expense either. Cities that are growing and adding roads are taking a greater share of the gas tax, and as a result Milwaukie is getting a smaller share. Last year Milwaukie's share was \$768,775. The street fund is about \$2 million, so there are some other limited revenue sources including water, sewer, and storm franchise fees. This figure also includes a \$626,000 fund balance with a projected revenue of about \$1.6 million. Next year's fund balance will be less because of some rather large expenditures this year.

**Rouyer** added the current spending in the street fund is about \$600,000 for maintenance, but it needs \$1.29 million.

**Mayor Bernard** said Wilsonville has had a road maintenance utility fee for about 10 years and is getting caught up on its projects. As a result, Wilsonville is lowering its fees.

**Ghilarducci** believes Wilsonville's residential rate started at \$4.48 and is down to \$4.17.

**King** discussed declining gas tax revenues since 1995.

**Rouyer** commented on pre-emption legislation efforts that would not allow local governments to impose this type of fee to generate revenue.

**Mayor Bernard** understands that Safeway costs would be \$700,000 annually.

**Ghilarducci** said that amount is for all the Safeway stores in Oregon. Fees would probably be about \$1,000 per month for individual stores.

**Mayor Bernard** would like to see that amount reduced because stores are already paying weight and mile taxes. He is concerned about discouraging businesses. If the county does adopt the fee, the Milwaukie City Council may vote to consent or decide to do impose a fee of its own.

**Councilor Loomis** asked how much the gas tax would have to increase for Milwaukie to repair its roads. He feels a gas tax is more equitable.

**Mayor Bernard** pointed out Milwaukie does not have a lot of gas stations within its city limits. Sandy, for example, has a local gas tax, but there are a lot of tourist attractions in the area. Further, it is not in the midst of a metropolitan

area. Everyone gets some advantage from roads, including public transportation and deliveries to stores, even if they do not drive.

**Hatz** added that if Milwaukie gas stations charge extra for a local gas tax many drivers would go elsewhere to purchase gas.

**King** commented money in the street fund goes to street lighting and other expenses, so it does not strictly go to road reconstruction or overlay projects.

**Councilor Loomis** would be in favor of finding a way to pay for lighting outside the street fund and using available money to repair the roads.

**Rouyer** asked for direction on whether or not staff should proceed with work on the fee either with Clackamas County or independently, and if staff should pursue the PGE privilege tax. The privilege tax would substantially cover street lighting costs.

**Ghilarducci** added, according to the draft ordinance as written, cities may adjust their fees up or down independent of the other participants. Milwaukie could lower its rate if other revenue sources are identified.

**Rouyer** believes it is important for the City to closely monitor the county's course of action and evaluate the public involvement process.

**Swanson** said direction to continue does not commit the City Council to anything. He likes what he has seen of the process, and Milwaukie has worked well with the county over the past year. Milwaukie still has the opportunity to pull the plug, and further conversation needs to take place with a broader range of City residents. At this point, he believes there is more to gain than lose by continuing. He reminded the group the PGE privilege tax is a tax. Continuing with the county keeps Milwaukie's options open, and he believes the process has been very thorough.

**Ghilarducci** said the County Commissioners will consider the fee in September, and he does not know of any timelines for cities to consent.

**City Council directed staff to continue the transportation maintenance fee project with Clackamas County and asked the Citizens Utility Advisory Board to prepare a recommendation on implementing the PGE privilege tax.**

**Councilor Stone** said something needs to be done. Money will be coming out of people's pockets whether it is a fee or a privilege tax. She understands that although the PGE option is a privilege tax, it will not go to the voters. She hopes there will not be a misinterpretation.



**Councilor Lancaster** said the City would have to do a publicity campaign to make people understand the privilege tax goes to street lighting and nothing else.

### **Municipal Court Judge Services**

**Swanson** said the judge's annual contract will expire at the end of June and asked the City Council's desires regarding renewal. On a separate issue, he is considering a resolution of some kind setting minimum mandatory fines on all traffic citations giving the municipal court judge only discretion greater than that amount. Currently Milwaukie is collecting about 25% of the fine amount. The purpose for setting a minimum would be to pay for officers' time spent in issuing citations as well as acting as a deterrent.

**Councilor Lancaster** felt there needed to be a very strong deterrent. If people cut through the community and break the law, they should understand it will cost them.

**Mayor Bernard** said the judge's contract and the Council's opinion on an ordinance must be separate.

**Councilor Stone** had an issue with Milwaukie being a pass through community and agreed there should be consequences for people disobeying the law. Her husband grew up in Milwaukie, and at that time the police had a reputation. In her years on the Traffic Safety Board, she was told tickets were not issued until speeds were 10 – 15 mph over the posted limit; otherwise, the judge threw out the ticket. She feels that is significant. She wants to know if the Council could have an impact on that by adopting a resolution.

**Kanzler** said the standard is about 10 mph over the posted speed limit to ensure the driver is actually in violation. The judge may take a driver's possible temporary inattention into account and be lenient. He did agree Milwaukie should have a reputation for expecting speed limits to be observed.

**Councilor Stone** recommended a long-range education plan for the public that says the judge will uphold any citation that exceeds 5 mph over the speed limit.

**Kanzler** said the onus is on the officer to honestly justify that the judge can find the driver guilty.

**Mayor Bernard** asked if it was really worthwhile to write a ticket for 5 miles over the speed limit.

**Kanzler** said the officer is obligated by law to come to court, so there are costs involved.

**Councilor Lancaster** commented there are, in reality, a lot of vehicles to choose from that are going 10 or more mph over the limit.

**Councilor Stone** said the goal is not to have to write so many tickets. It seems sensible that if Milwaukie is known for issuing citations backed up with a minimum fine amount, the City will get its reputation back.

#### **Rowe Middle School Resource Officer**

**Swanson** discussed a letter he received from Bill Dierdorff of the North Clackamas School District asking for a rebate on the amount paid for the middle school resource officer because the school year was shortened. The more important issue than money is one of deployment. The information Kanzler provided earlier in the work session will help more efficiently deploy the 29 budgeted officers. That is not to say officers will not be assigned to the schools. These are deployment decisions that must be made by the police chief. He believes the District's \$35,000 share will disappear. If both the middle school and high school warrant a full time resource officer, he has every confidence the chief will make that decision. It is all about community safety, and if that safety is better served by a different configuration or different assignment, the chief needs to be able to make those operational decisions.

**Councilor Lancaster** said as far as he is concerned the chief makes the call.

**Mayor Bernard** agrees with Swanson that deployment is the issue but also believes the first line of defense is in the schools. He would leave deployment decisions up to the chief and hopes the department would concentrate its efforts on supporting at-risk children.

**Kanzler** demonstrated to the City Council earlier that staff is decreasing and crime is increasing. His hands are tied if he cannot pull resources from the schools to meet a critical community need. He agrees with the Mayor that having a presence in the school is valuable, but he needs flexibility in staffing priorities. When community safety is at risk, the department must be able to respond. The department will try to maintain its presence in the school as much as possible, but it would not be mandated if City Council accepts this recommendation.

**Councilor Loomis** feels if there was no funding from the District, then deployment is the chief's decision.

**Kanzler** agreed. The City pays the entire cost of the high school resource officer, and up until this fiscal year fully funded the middle school officer.

**Councilor Stone** asked for clarification if the City would still try to have a resource officer in the middle school if the District withdrew its share of the

funding for that position. Would Kanzler deploy that officer elsewhere for an emergency?

**Kanzler** said deployment of that officer would depend on community need. The department is seeing a lot of recidivism with the same criminals coming back into the community, and the crime rate is going up. With an increased demand, he needs to have the flexibility of taking an officer out of a school to fill a district need. If his hands are tied, he cannot respond to community needs.

**Councilor Stone** understands the officer would be in the school but pulled out if needed elsewhere.

**Kanzler** said that is correct. The school resource officer understands the higher need of the community and would willingly accept the assignment.

**Councilor Loomis** asked Kanzler if the City Council or the District was tying his hands.

**Swanson** said he is tying Kanzler's hands because he was given direction.

**Councilor Loomis** asked if the \$35,000 was tying his hands.

**Kanzler** said the \$35,000 commits the City to placing an officer in the middle schools half time during the school year. If the District does not pay, then the department has greater flexibility.

**Swanson** said in many ways he would rather have the flexibility than the \$35,000. The department's responsibility is to the wider community. This is not a comment on the District but on the City's responsibility and appropriate allocation of a scarce resource.

**Councilor Stone** referred to the letter from Bill Dierdorff. When the City entered into the contract with the District, was it on a day-to-day basis?

**Swanson** said the City and District did not discuss that aspect.

**Councilor Lancaster** recalled quarterly payments were set up to accommodate the District.

**Councilor Stone** asked if it is ethical for the District to demand reimbursement.

**Councilor Lancaster** said, like any contract, parties are free to make an effort to renegotiate, but there is no obligation to even discuss the issue.

**Other**

**Councilor Loomis** asked the procedure on questions relating to regular session Council agendas. He asked how people felt about the special event military item because he has a lot of questions and is concerned asking them at the meeting might offend others.

**Councilor Stone** understands Loomis does not want to slow down the meeting, and members are wondering what they can ask.

**Mayor Bernard** noted the Budget Committee has recently been meeting during the normal Council work session times, so that advantage was temporarily lost. Councilors may talk to the city manager or department head about agenda items.

**Councilor Lancaster** said at times there has been so much discussion about regular session items during work sessions that it appears to the viewing audience that the Council has put little thought into making its decision. Sometimes it is appropriate to ask questions for which Councilors already know the answer, so people can follow the decision-making process.

**Councilor Loomis** does not like to feel rushed. The group discussed full work session agendas and appropriate scheduling of consultants.

**Swanson** said when Councilors have questions it is appropriate to give the staff person a courtesy call so he or she can research the answer if necessary.

**Mayor Bernard** reads the packet as soon as he gets it and calls staff if he has any questions.

**Councilor Stone** had a question about minutes. She certainly does not feel comfortable consenting to the minutes if she believes there is something that needs a correction. She got the feeling from other Councilors that the minutes are on the consent agenda and nobody reads them anyway. Her understanding of minutes is that they are an accurate reporting of what happened at the meeting, and they should reflect that. Sometimes there are little things that did not get in the minutes that should have or maybe wording slightly alters the intent.

**Mayor Bernard** said then those words should be amended at the next meeting.

**Councilor Stone** said 1 person is doing the reporting, and the minutes are not verbatim. How does that get reflected?

**DuVal** said she makes those changes and signs the final version for the record.

**Mayor Bernard** said he had discussed Stone's use of the phrase, "it was not my intention" with the attorney.

**Councilor Stone** said the issue was that it did not convey what she said. She is not trying to change the minutes. Words are powerful, and the way they are construed and constructed in a sentence can alter the meaning of that sentence. To have it be altered changes the meaning of what was really said. She was not trying to change anything.

**Councilor Lancaster** got the sense Stone was angry when he read her e-mail

**Councilor Stone** said she was angry and could not respond to the e-mail.

**Councilor Loomis** understood from the discussion that Stone did not say, "that isn't what I said". It came across as, "that isn't what I meant."

**Councilor Stone** said 1 person does the recording and things needed to be clarified. Stone will e-mail her changes to DuVal.

**Councilor Lancaster** did not mean to trivialize the issue. Material omissions or incorrectly stated facts need to be corrected. If it is minor it is his experience no one reads the minutes anyway.

**Councilor Loomis** added the meetings are on tape.

**Councilor Stone** would like information on the MDDA at a future time.

**Mayor Bernard** adjourned the work session at 9:20 p.m.

Pat DuVal  
Pat DuVal, Recorder